

Minutes of Public Meeting

Environmental Quality Commission

Room 149 Capitol Annex, Frankfort, Kentucky.

January 24, 2002--2 p.m. to 6:00 p.m.

EQC Commissioners and Staff Present

Aloma Dew, Chair

Betsy Bennett, Vice-Chair

Patty Wallace

Serena Williams

Bob Riddle

Gary Revlett

Jean Dorton

Staff

Leslie Cole, Director

Erik Siegel, Assistant Director

Lola Lyle, Research Analyst

Frances Kirchhoff

Speakers/Representatives Present

Bob Logan, Commissioner DEP

Tom Dorman, Director, Ky. Public Service Commission

Caryl Pfeiffer, LG & E Energy Corp.

Tom FitzGerald, Kentucky Resources Council

Representative Jon Draud

Opening Remarks/Approval of EQC Meeting Minutes

Environmental Quality Commission (EQC) Chair Aloma Dew opened the meeting at 2 p.m. There were approximately 60 persons in the audience. Ms. Dew opened the meeting with a historical milestone for EQC. It was 30 years ago that the Kentucky Environmental Quality Commission was created. Throughout the year, the commission will celebrate 30 years of working to promote effective solutions to protect our environment. Ms. Dew noted that she has had the pleasure of serving on the commission for the past 10 years and believed EQC has been an effective force in helping to shape environmental policy and positive actions for a clean and healthy environment.

Ms. Dew asked for a motion to approve EQC September meeting minutes. A motion was made by Betsy Bennett and seconded by Jean Dorton to approve the minutes of the September EQC meeting. The motion passed unanimously.

Power Plants Issues and Needs -- Overview

Ms. Dew noted that an important part of the EQC mission is to facilitate public discussion on environmental matters of concern. Today's meeting will focus on a matter generating a lot of public interest—Power Plants.

Ms. Dew noted that since October 1999, the state had received applications for 24 new or expanded power plants. In response, Gov. Patton on June 19, 2001 declared a six-month moratorium on new power plant applications. On Jan. 11, 2002 the Governor ordered a moratorium on issuing new power plant permits until July 2002 to continue to review the impacts of additional electric generating capacity on the environment and the state's electric supply grid. Since then, another five power plant applications have been received by the state for a total of 29 proposed power plants.

EQC has invited state and officials to review the findings of the two studies designed to assess the impacts these power plants will have in Kentucky. The commission also invited industry and environmental representatives to provide their views on power plant issues and needs.

ENVIRONMENTAL IMPACTS OF POWER PLANTS

The first speaker was Mr. Bob Logan, Commissioner for the Department of Environmental Protection. Mr. Logan, assisted by Aaron Keatley, gave a power point presentation explaining Executive Order 2001-771 directing the Natural Resources and Environmental Protection Cabinet (NREPC) to study the cumulative environmental effects of the development of new electric generative capacity, as well as the resulting impact on existing environmental programs. Due to time constraints of the study, the Cabinet did not evaluate the secondary impacts of the proposed power plants caused by fuel extraction, refinement, transportation and power distribution.

Since October 1999, the Cabinet has received applications for the construction of 22 new or expanded power plants. A majority of the new plants will burn natural gas, four will burn waste coal, three will burn traditional coal and one will burn a combination of gasified coal and residential garbage.

Some of the conclusions drawn from the NREPC study include:

- Power plants are significant sources of air, water and land pollution. A majority of these pollutants originate from coal burning power plants.
- Kentucky may have problems meeting the 8-hour ozone standard imposed by the Clean Air Act, even after significant NO_x reductions are achieved.
- Some of the existing and proposed power plants may release hazardous air pollutants at levels that are not safe for humans to breathe (arsenic, beryllium, total chromium, and nickel).
- Water supply may not be adequate to meet some of the power plant demands during times of low flow of rivers.
- Power plants are sources of heavy metals that can lead to soil toxicity and bioaccumulation problems in the environment.
- The proposed plants that will burn coal and waste coal will generate more than one-and-a-half times the amount of ash currently generated in the state.

If the potential impacts are properly addressed, the NREPC believes proposed power plants can be built without posing an unacceptable impact or risk to human health or to the environment. To address these potential impacts, the Cabinet has proposed 14 recommendations needed to be implemented to ensure adequate protection of public health and the environment from existing and proposed power generation.

- Implement the NO_x SIP call and further reduce NO_x emissions if necessary.
- Conduct further analysis of air toxics emissions.
- Establish air toxics standards.
- Seek legislation that removes the water withdrawal permitting exemption.
- Ensure surface waters are not used for drinking without adequate treatment.
- Establish permit limits for all substances being released by a plant that could impact water quality.
- Establish groundwater standards.
- Require groundwater monitoring at ash ponds.
- Restrict consumption of untreated groundwater where known problems exist.
- Provide additional public participation before ash landfills begin to operate.
- Increase Cabinet oversight at ash beneficial reuse locations.
- Further research the total number of power plants Kentucky can accommodate.
- Acquire additional staff for power plant permitting, inspections, monitoring and analysis.
- Further analyze “secondary” impacts.

The entire report can be viewed at the following web site:
<http://www.nr.state.Kentucky.us/nrepc/powerplantreport.pdf>

Questions and Answers followed the presentation.

What happens to these recommendations?

Logan - The Ky. Dept. of Environmental Protection is working to advance these recommendations. We have also taken some actions. For example, when a person applies for an application for a power plant we conducts a multimedia type review.

Do any bills before the general assembly now have anything to do with this report?

Logan - Rep. Draud's merchant siting bill was in the works before this study was completed, but I also believe that this report has had some effect on the bill.

Were the earthquake possibilities in Western Kentucky taken into consideration when looking at applications for power plants in Western Kentucky?

Logan - Siting in seismic areas has been raised.

Concerning the recommendation on ash, the report mentions more oversight. Can you go into a little more detail about what that means?

Logan - We want to be sure that ash reuse is beneficial and evaluate the quality of the ash. Can ash be use as structural fill? Yes, if it is defined as a special waste.

You commented that Henderson and Daviess County would not (from your projections) meet the 8-hour NOx requirement. What effect will power plants have on NOx levels in this area?

Logan - There will have to be close scrutiny of the NOx standard levels. If the proposed power plants are built, there are several options. The power plant could have to look at ways to control emissions. There may also need to be NOx reductions made from other sources (existing stationery sources) to achieve the NOx standards.

Is there a problem with reuse of waste material (ash) generated by power plants?

Logan - We are concerned about the reuse of ash material. We want to make sure this material does not enter into surface waters or the ground waters where it could create problems.

Are all areas of environmental pollution being addressed adequately?

Logan - Most of the focus of the electrical generating facilities has been on the air pollution. We have tried to inform all those applicants that the permitting process is not finished until we look at water and waste issues. We know that in a couple of locations there are some serious concerns about water use and water availability. Some power plants do not use a lot of water while some use a large amount of water. It depends on the type of facilities and where they are sited. It also depends on if it is an immediate facility or a baseload facility. Also the fuel source can determine the amount of water and the technology they have to put into place.

What is the likelihood of all of these plants being built?

Logan - There are many factors. There is no way to tell. Certainly economics is a big factor. Our primary mandate is to ensure the environment is protected. We must be extremely vigilant about siting and what the impact will be.

What about toxic emissions like Mercury?

Logan - There is an appendix in the report that talks about mercury bioaccumulation on the aquatic side and we discussed this to a certain degree on the terrestrial side. Kentucky also has a statewide fish consumption advisory due to mercury in fish tissue. We looked at TRI toxic release data from 1999 and 2000 where mercury was reported. The NREPC study does point out that mercury is one of the issues that we are concerned about.

What about the problem of arsenic and added costs associated with treating drinking water?

Logan -- We didn't look at the economic effect arsenic and other toxic pollutants will have on drinking water treatment. Generally, we reviewed the new federal requirements and existing standards for arsenic in drinking water.

Additional questions were asked including the impact of power plants on Mammoth Cave National Park. A representative from the Park questioned the study's assessment of visibility impacts to the Park. Mr. Logan responded that the Park has an opportunity to provide information regarding visibility impacts.

POWER PLANTS: GENERATION AND TRANSMISSION ISSUES

Next Chair Dew introduced Mr. Tom Dorman, Executive Director of the Kentucky Public Service Commission (PSC). Mr. Dorman introduced Mr. Aaron Greenwell, Director of Financial Analysis, and Bob Amato, Director of Engineering.

As a result of the moratorium, the PSC was directed by the Governor to look at the adequacy of generation in Kentucky and the impact of the 24 proposed plants. The proposed plants have a potential of 11,000 new megawatts located in Kentucky. The study reviewed what impact this would have on the electric transmission grid in Kentucky and the ability of the regulated utilities currently serving Kentuckians to deliver power to service the native load.

Mr. Greenwell provided some background on generation and transmission flow, industry changes, demand and supply planning, supply resources issues and other related issues. With regard to industry changes, the Federal Energy Policy Act of 1992 promoted independent power producers such as merchant plants. The Federal Energy Regulatory Commission (FERC) Order 888 sponsored more open access to transmission. There has been significant retail restructuring in nearby states making the wholesale power market more competitive. FERC Order 2000 was the creation of Regional Transmission Organizations (RTOs). There are stricter environmental regulations causing more reliance on gas-fired generation. All these have impacted the structure of the electric industry and how it operates because we now see:

- Increased volume of larger power transfers across greater distances.
- Reductions in reserve margins used by utilities for planning purposes.
- Reliance on wholesale power purchases, therefore more volatility in wholesale electricity prices.
- Reliance on gas-fired generation and increased volatility in the natural gas prices.

Mr. Greenwell also noted that Kentucky's electric rates are among the lowest in the nation. These low rates are largely due to Kentucky's reliance on coal-fired generation sold at cost-base price.

Mr. Greenwell gave a summary and conclusions and the findings of the report with regard to **power generation and other issues:**

- With regard to generation, the commission found that the Kentucky companies could adequately serve native load in the near-term. Big Rivers, East Kentucky Power, LG&E and

KU are adequately planning for the future. PCS does have some concerns for AEP-Kentucky and Union Light Heat and Power in the long-term because they rely on purchased power.

- With regard to supply resources, PSC found that reserve margins reliance on peaking generation and purchase power are appropriate but industry changes necessitate re-evaluation. Therefore, PSC is requiring an annual capacity needs assessment be filed with the PSC starting in March 2002. Utilities have been asked to investigate shared ownership of plants, coordinating plant maintenance schedules and to consider cost-effective demand side management. PSC found that the merchant plants might have a role in future provision of the supply by the regulated utilities if the price does not exceed that of utility generated power. PSC also suggested that the energy policy advisory board review the creation of a public power authority to market the state's coal fired generation. PSC indicated that there should be a non-utility siting policy and a policy that favors native load in curtailment matters and those issues should be addressed by statute.
- With regard to Kentucky's transmission system, PSC found that the current system can serve the native load and more than half of the proposed generation. However, it cannot handle the volume of power transfers that are likely if the wholesale markets materialized as planned by the Federal Energy Regulatory Commission (FERC).
- With regard to transmission upgrades, the PSC found that the cost of upgrades for new generation should be borne by the cost causers and/or the beneficiaries of the upgrades—not the native load customers.
- With regard to demand and supply planning, PSC had information for each of the six generators. Big Rivers Electric Company purchases 100 percent of its power needs at fixed prices because of a lease arrangement it has with LG&E Energy. It will be able to meet its needs for the foreseeable future. East Kentucky plans on meeting its needs by adding base load and peaking capacity and relying on a small amount of purchase power at fixed prices through 2010. LG&E and KU plan on meeting their system's needs with peaking capacity and demand side management programs until 2010. AEP Kentucky plans to rely on market purchases after 2004 for part of its load after its existing fix price contract expires. Union Light Heat and Power has four requirement contracts with Cinergy at fixed price purchase power contract through 2006. It has not announced plans for meeting its system needs after that, however, has agreed to file an integrated resource plan to address its future needs with the PSC prior to 2004.
- With regard to supply and resource issues, PCS natural gas is being relied upon more than in the past but it is still a small part of generation in Kentucky and appears reasonable even with the current price volatility.
- With regard to the issue of joint ownership of plants and scheduled maintenance—Utilities have been ordered to conduct joint studies on these issues and report to the PSC by the middle of 2002.
- With regard to demand side management the PSC indicated this should be a part of all utility resource plans.
- With regard to the impacts of the proposed merchant power plants on the transmission system, the PSC indicated that the benefits are not enough to require that native load customers pay for transmission upgrades to accommodate new generation. The PSC also found that if the power is priced right to the merchant plants, they might play a role in the future in generation planning for our jurisdictional utilities.

As a result of the study, PSC issued several orders directing electric utilities to:

- File a capacity needs assessment annually beginning March 2002.
- Conduct joint investigation of shared ownership and report by June 2002.
- Conduct study of coordinating maintenance schedules and report by June 2002.
- Conduct reserve margin analysis and include it in the next Integrated Resource Plan.

- Thoroughly evaluate the demand side management in the next Integrated Resource Plan

Mr. Bob Amoto gave a review of the **electric transmission system** and the key issues. The PSC findings showed that:

- The grid is adequate to serve the native load – to serve Kentucky customers.
- The grid is not adequate for handling anticipated volume of wholesale bulk power transfers during high demand as well as the native load.
- Transmission Loading Relief (TLR) protects the electric grid's reliability in Kentucky and the native load it serves. The TLR procedure prioritizes the power transfers across the grid and gives highest priority to native loads and firm long-term contracts then short-term firm contracts. Non-firm contracts are the lowest priority.
- The Regional Transmission Organizations (RTOs) expect to better manage parallel flows and issue the TLR and reliability measures.
- Grid upgrades are necessary to accommodate anticipated wholesale transfers.
- Cost of upgrades should be borne by cost causers—the beneficiaries of the upgrades, not the ratepayers of Kentucky.
- Kentucky's electric rates are protected from these cost by current federal regulations that requires federal merchant plants to pay for transmission upgrades needed to carry their power over the lines. PSC must continue working to ensure that regulations don't change.
- Propose legislation to make the TLR procedures a state law as well as a federal regulation.
- As part of the analysis of these 24 proposed merchant plants, PSC conducted an electric transmission flow analysis model. The model indicated that under peak usage condition with minor improvements, the existing systems could accommodate 6,000 to 7,800 mega watts of the currently proposed generation. These figures give only an indication of the transmission system to accommodate these additional facilities. It doesn't guarantee that the generators could ship that quantity of power at all times. The electric system is very interdependent and to create this model several assumptions were made. All the proposed generation in the model was shipped to the south under summer peak conditions, and all the generators were built as proposed and where they were proposed and there were some limitations.
- The merchant plants must obtain firm transmission to access transmission lines accept as an as-available basis, and to obtain firm transmission, they must pay for necessary upgrades to the system.

SITING POWER PLANTS

Mr. Tom Dorman, Director, PSC, talked about proposed siting legislation under consideration by the General Assembly. Rep. Draud's prefiled bill was in response to a situation in his district in Erlanger where Cinergy proposed to site a peaking unit. The site is owned by the utility and zoned for that type of activity but was in close proximity to residences and a nursing home so there was considerable concern.

Rep. Draud's legislation started off with a siting provision for merchant power plants. Additional elements have come out of the deliberations of the Governor's Energy Policy Advisory Board and the reports made to the board. These elements are being added to the legislation. Basically the bill includes a siting board similar to other states related to siting generation and transmission facilities.

The bill will also include measures to address interconnections to the power grid. PSC has mentioned its concerns about the impacts merchant plants will have regarding interconnection with the grid. PSC has concerns from both an engineering standpoint about whether that interconnect is properly done and the issue that the cost of the interconnect be borne by the cost causers not by the ratepayers of Kentucky. This is also being debated at the federal level. The

Federal Energy Regulatory Commission believes that all ratepayers should pay for the cost of these interconnects.

Another item PSC would like to see added to this bill relates to utility assets. This is a concern of the PSC. With the growth of the wholesale electric market where deregulation has been enacted, companies are separating generation, transmission, and distribution into separate companies. There is increasing interest in selling off these assets as an affiliate and selling it back to the distribution company. The PSC wants to use its powers to look at the sales of these assets. Finally, PSC would like to ensure that the policy of the Regional Transmission Organization that native load is taken care of first and that Kentucky's ratepayers are taken care of before all these interstate transmissions are accommodated is the policy of the Commonwealth as well.

How did they arrive at the 2000 feet siting setback in Rep. Draud's bill?

Dorman - I do not know, but that is incorporated in the Governor's draft bill as well. To the best of my knowledge, it was an arbitrary figure.

When the grid is strengthened, will the area be made wider or will more lines be strung on the already existing structures?

Dorman - It depends. Transmission capacity can be added to already existing right-of-ways, but to address some of the redundancy issues, (should there be transmission failures) there is a hesitancy to add more transmission to an existing right-of-way. There is more controversy trying to set it on new right-of-ways, but there are some engineering arguments for trying to establish new transmission routes.

Would a siting restriction setback take away the possibility of developing brownfields for this type of activity? Is there any consideration given to that aspect? Will it force more urban sprawl? And Public power authority, you said that it would be used to market coal-fired generation and that regulated and merchant coal fired generation. How do you see that taking place, the Public Power Authority is to market coal fired generation?

Dorman - The idea of a Public Power Authority came out of the administrative case that was before the PSC. It was a suggestion by Thoroughbred Generating and the idea behind that was to market the power coming from merchant plants and to treat that as a full economic development issue.

(Representative Draud arrived at the meeting and spoke briefly about his bill.) He said it began with a proposal to site a merchant plant in Kenton County about 600 feet from a library, 660 feet from nursing home and 800 feet from residences. Representative Draud said that his bill, as it was modified by the Governor's Energy Policy Advisory Board, has developed into a much broader proposal. The original bill was primarily aimed at siting, but the final bill is much more comprehensive. Representative Draud said there is a need to make sure there is proper oversight and that the merchant plants are in the public's interest. Tom Dorman mentioned that hopefully the bill will be filed Monday and that once the bill is submitted and drafted, encourage everyone to contact their legislatures so that this bill will become law both in the senate and the house.

Eminent domain --

A comment from the audience member from Northern Kentucky expressed concern about takings, eminent domain, and power lines crossing all over the state. He indicated that Kentucky does not need any new power generation plants. The Public Service Commission needs to be cautious that Kentucky does not turn into an electric farm supplying electricity to all of the eastern United States. Even though Kentuckians are not going to be charged, Kentuckians will still pay by losing its land and by losing its scenic beauty.

Rep. Draud -- The power of eminent domain is available only to the regulated utilities in Kentucky.

An audience member noted that it is clear that the drafters of the law intended eminent domain to be applicable to issues of right-of-way for transmission of power. But a local utility evoked that same legislation to defend the use of eminent domain was applicable to start-up of generation. I think that is a wrongful interpretation. I think the legislation could be better worded to rule out startup generation versus the more important role of eminent domain in transmission and right-of-way.

Is there is an environmental cost that can be passed on to the people who receive the electricity?

Sen. Draud -- There is currently nothing on the table to try to get to that issue.

Is there anything in the legislation to stop the sale of an easement by a power plant?

Dorman -- As far as the ability to sell the easement, it depends on how the easement is written as to whether or not it can be sold.

Sen. Draud -- The legislation does address the situation where an applicant comes in and is granted authority to locate a generation facility or a transmission facility. If they later decide to transfer those easements as assets to a new owner, then the new owner has to come before the board.

INDUSTRY RESPONSE TO POWER PLANTS ISSUES AND NEEDS

Chair Dew next introduced Caryl Pfeiffer, Director of Environmental Affairs with LG&E Energy Corporation. Ms. Pfeiffer commented on energy issues the prospective of power plant industry representative.

Ms. Pfeiffer provided some background about LG&E as follows:

- 98 percent of the kilowatt-hours LG&E delivers comes from coal.
- By its very nature, the burning of coal brings with it the potential for substantial impacts on air, land and water. The goal is to minimize the impacts of the facilities on the environment.
- The U.S. EPA, the state regulatory agency, and LG&E all work together to address environment impacts.

Ms. Pfeiffer gave a history of the environmental regulation of the industry and the challenges that lie ahead. A summary of major pieces of environmental legislation that led to a decrease of the impact burning coal has on the environment were mentioned:

- Clean Air Act Amendments of 1990
- Water Quality Act of 1987
- SARA of 1986/RCRA of 1988

Air Quality Regulation

- Acid Deposition Control
- NOx SIP Call
- Mercury/HAPs

Surface Water Quality/Quantity Regulations

- Water Use
- Water Quality Issues
- Groundwater Protection Programs—the Division of Waste Management under a special waste regulation imposes Groundwater standards.

Ms. Peiffer noted that groundwater monitoring at LG&E ash ponds shows compliance with the Maximum Contaminant Levels for the primary drinking water standards.

Ms. Peiffer also discussed waste issues associated with power generation. She noted that Kentucky does have the special waste management regulatory program and it does have a component that provides for beneficial reuse of waste. LG&E operations have been changed at the three major facilities to promote beneficial reuse of waste. For example, instead of making scrubber sludge and landfilling it, synthetic gypsum is being used by the wallboard industry. Another land protection program is the development and redevelopment of existing power plant sites to be used as another type of generation. Because the infrastructure is already in place, coal-fired sites such as EW Brown, Paddy's Run and Trimble County can be expanded to the natural gas-fire combustion turbines. These sites have added generation during the last decade.

Ms. Peiffer also referred to the Toxic Release Inventory. This is a public database, a reporting mechanism for more than 600 chemicals that are used, transferred or stored on-site. This is simply a reporting of releases by power plants and other facilities; it is not a risk assessment.

Do you or does the power industry have any major concerns with the recommendations of the Cabinet such as the water withdraw permits and more oversight of the ash sites?

Peiffer -- No, low-flow restrictions are already in place in the water discharge permits to protect aquatic habitat. As a matter of course there is immediate communication from FEMA and the Cabinet to try to alleviate water supply issues if they arise.

What about the need for increased oversight of ash ponds?

Peiffer -- I perceive that as a need for protection and for ongoing liability for the industry and the Cabinet.

Comment concerning the difference between a Permit-by-rule and a Registered Permit-by-rule.

Peiffer -- In a permit-by-rule, there is no oversight by the Cabinet. The industry takes the fly ash, dumps it, and then notifies the Cabinet. Industries are not required to notify the Cabinet but usually do because of future liability. There is no review or oversight whatsoever in a permit-by-rule. A registered permit-by-rule is better because the Cabinet has some oversight.

Are you saying that LG&E has no problem with what the Cabinet is proposing to do with existing power plants?

Peiffer -- Not in those two areas we just discussed. Some parts of the report would lead you to believe that there was no Clean Air Act of 1990. The data used to assess the air impacts of existing facilities was from a 1995 air database. That didn't even have the first Phase of SO₂ reductions, none of the NO_x reductions, and no Phase 2 SO₂ reductions. The report also does not incorporate the Report to Congress on Hazardous Air Pollutants. The Cabinet has identified mercury as an issue-- but at the federal level there is a mercury regulation being developed now. The report does have things in it that we are already working on, but the report also includes additional issues specific to Kentucky that need to be addressed. Ash is a huge issue that has come up, and new plants that are burning new types of fuels certainly need to be addressed.

Other states are banning ash as structural fill; does your industry have any prospective on that?

Peiffer -- If you look at the states in the Midwest and the South, they have more aggressive programs for beneficial reuse of material than Kentucky. The placement of ash and the

placement of a facility, and the impacts associated with that have everything to do with the location. There are certain environments where that is unacceptable.

ENVIRONMENTAL RESPONSE TO POWER PLANTS ISSUES AND NEEDS

Chair Dew introduced the final speaker, Tom FitzGerald, with the Kentucky Resources Council. Mr. FitzGerald is also a member of the Energy Advisory Board created by Governor Patton to review energy issues and needs in the state. Mr. FitzGerald provided his views of power plant issues and needs in the Kentucky.

Mr. FitzGerald thanked the Commission for an opportunity to provide some comments on the NREPC's assessment of environmental issues associated with proposed power plants. Mr. FitzGerald said the Cabinet framed their study around the question "How many more plants can we accommodate while protecting public health and the environment?". My question, "Is this the road we want to go down?" As Representative Draud put it "What's in it for Kentucky?" What's in it, not just economically but what's in it as far as air quality, water quality, utilization of our land the development of other industries such as tourism, the protection of the integrity of our environment.

During the past 10 years, the regulated power utilities, the most egregious polluters up to the enactment of the 1990 Clean air Act amendments, have had to clean up their act. They are, and always have been, heavily regulated and have provided reliable and very inexpensive power. However, the true costs has been the unpaid costs--the air pollution, road damage, black lung disease--all other costs that we don't see when we flip on the light switch. We have reduced pollution significantly from regulated utilities. The question is, "Do we want to give an increment of that improvement away to a merchant industry in order to allow them to utilize Kentucky as basically an electricity energy colony for Middle America to serve deregulated states' energy needs?". It is a question of wisdom rather than a matter of carrying capacity.

There is a siting bill a draft of which was given to the Energy Policy Advisory Board Siting Subcommittee at the last hour. We had two very brief meetings on siting even though we met well over a year. I put together a long list that needed to be in a comprehensive siting bill. The subcommittee and the full board never had a chance to review these concerns even though they were supplied to them months before we adjourned. In addition, those of us who represent citizens and communities are not involved in the bill drafting process. Hopefully that will be corrected by the time the siting bill is introduced and we will have a chance to have some input and some discussion of the Governor's draft siting bill. I would point out even though we met only briefly, that there was consensus within the siting subcommittee, which included representative from the merchant industry, the regulated industry and the environmental community. We all agreed on the principal that impacts of merchant plants should be fully mitigated and offset. Proposed merchant facilities should be fully characterized for their effect on the environment -- both local and the regional impacts. These facilities should be required to fully mitigate impacts. In one community, a plant has claimed exemption from local planning and zoning. That also needs to be clarified. My principal concern is that we have a plan that is comprehensive enough and we can fully characterize the impacts of these facilities and require that they be mitigated. The use of arbitrary siting setbacks is troubling because it is not a tool to manage the impacts of a facility. What happens with the setback approach is you start to site by default. And as a rural person in a county where there is no zoning and planning it is not good.

Would it be better to urge Rep. Draud to take his siting criteria out of the bill and specify something else to mitigate impacts?

FitzGerald -- PSC has a tremendous capability in terms of assuring reliability and competence among the regulated utilities. My initial proposal was to have the PSC manage this program. I didn't think a siting board was the way to go, but PSC does not want to manage non-regulated utilities because it will be mostly an environmental issue and not a reliability issue. PSC will assure reliability and with the additional statutory criteria we will assure that the native load will not be compromised. Language is needed to fully mitigate impacts of merchant plants.

Are there any models from other states that Kentucky could use?

FitzGerald -- Yes, there are many examples of state siting bills. There is a web site showing where another state did extensive analysis of air and water and other impacts from merchant plants. Sittings can be regulated by siting boards, agencies, by happenstance, and others. Unfortunately, I am not aware that the state has fully assessed these models.

Ms. Paula Wilson with the Governor's Forest Board commented on the need to consider the environmental impact these plants will have on the timber industry in Kentucky.

Mr. John Blair of Indiana commented on coal and open records.

Mr. Blair suggested we take a look at coal in general. Coal fired power plant utilities have reduced their air pollution a lot over the last decade. But they still are the biggest source of air pollution in the United States. Air pollution causes birth defects and premature death; ozone pollution that causes asthma and contaminates wells and surface water. Mining the coal creates black lung disease and other abnormalities and destruction of huge areas of habitat of plant and animal. Mercury contamination from the burning of coal results in reduced IQs of our children. Mercury goes out the stack and works its way into the surface water and up through the food chain. Mercury is there forever and we will keep adding to it as long as we keep burning coal. You can't take the mercury out of a lake. As a result it causes a reduced economy as far as recreational fishing and the visibility issues, the aesthetics. Open records is under assault today. There is a proposal before the Department of Energy to strip us of having that knowledge. They say it has to do with national security, but Ms. Pfeiffer began her presentation by saying there is 'nothing trade secret about burning coal' so I don't know why DOE would propose that.

EQC Chair Aloma Dew thanked all the speakers and audience for their attention and input, and invited them to return after a five minute break.

Other Business

EQC drafted a letter to Governor Paul E. Patton concerning new and expanded power plants proposed in Kentucky. Gary Revlett made a motion that EQC send a letter commending Gov. Patton for his recent efforts to address power plants in Kentucky and to address issues associated with power plants. The commission listed specific power plant matters that require further attention. The motion was seconded by Betsy Bennett and passed unanimously. A copy of this [letter](#) is attached and made a part of these minutes.

EQC next discussed a proposal by a mining company to relocate an endangered species (Black Side Dace) to accommodate a coal mining operation. Betsy Bennett made a motion that EQC send a letter to Governor Patton urging rigorous assessment of this proposal as part of the state's surface mining and water quality permitting program with particular attention to the fact that this is an outstanding resource water that should be protected. The motion was seconded by Serena Williams and passed unanimously. A copy of this [letter](#) is attached and made a part of these minutes.

EQC next reviewed a draft resolution regarding environmental spills in Kentucky. The resolution was the outcome of a public meeting EQC held last year and an assessment of the state's spill response programs. A motion was made by Jean Dorton and seconded by Betsy Bennett to forward this resolution to Governor Paul E. Patton and Secretary Bickford for consideration. The motion passed unanimously. A copy of this [letter and resolution](#) is attached and made a part of these minutes.

Gary Revlett made a motion to approve a proposed air quality regulation 401 KAR 51:201. The regulation is a housekeeping measure. Betsy Bennett seconded the motion and it passed unanimously.

EQC Executive Director Cole next talked about activities planned to celebrate the 30th anniversary of EQC. One project will assemble various essays from prominent Kentuckians on their views on the environment--past and present, challenges confronting the state, and opportunities to move Kentucky forward in protecting the environment. Another project will involve preparing an environmental timeline for the Commonwealth of Kentucky.

Budget matters were next discussed. Ms. Cole advised the Commissioners that EQC funding was cut for fiscal year 2003-04. The Chair suggested that we meet with Secretary Bickford concerning these budget matters.

Ms. Cole also advised the Commissioners that on the EQC web site we now have legislative tracking service. If you want to know what is going on with a bill, click on it and it will give you the status. EQC's web site also has a power plant page that contains information about power plants, reports, background report, and legislation.

Next meeting will be March 21. The purpose of the meeting is a legislative briefing.

With no further business the meeting adjourned at 6:00 PM.

signed

dated